



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,654	02/13/2004	Lars Lindvold	0459-0753P	5623

2292 7590 12/15/2004

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

JACKSON, MONIQUE R

ART UNIT PAPER NUMBER

1773

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,654

Applicant(s)

LINDVOLD ET AL.

Examiner

Monique R Jackson

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 36-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/471,393.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. The preliminary amendment filed 2/13/04 has been entered. Claims 1-35 have been canceled (Note: The claim listing filed 2/13/04 incorrectly recites "1-36. (Cancelled)". The Examiner believes this to be a typographical error that should have read "1-35. (Cancelled)". New claims 36-44 have been added. Claims 36-44 are pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 36-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Bussard (USPN 5,281,499.) Bussard teaches an interface assembly comprising a substrate such as a metal substrate, a transparent polymer film having a holographic or a diffraction grating image thereon adhered to the substrate via an adhesive silk screen printing ink between the substrate and the film whereby the printed design on said substrate cooperates with the image on said film to provide a total graphic and wherein the hologram or diffraction (Abstract; Figures; Col. 3, lines 39-56; Col. 4; Col. 5, lines 15-23; Claims, particularly Claim 23.)

4. Claims 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Iwashita et al (USPN 6,579,611.) Iwashita et al teach a decorative laminate comprising a resin film laminated

to a metallic plate wherein the resin film is embossed and wherein the metallic plate may be coated with various paints prior to applying the resin film (Col. 2; Col. 3, line 45-Col. 4, line 15.)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stepanek (USPN 5,902,436) in view of Bussard or Iwashita et al or Mallik et al. Stepanek teaches a metal container such as a beverage container comprising a metal or aluminum stock substrate (*reads upon "holding metal substrate"*), a polymer adhesive layer, a metallized holographic image transferred from a plastic support and adhered to the substrate via the adhesive layer, and a transparent protective coating (*equivalent to the "second layer"*) over the holographic image wherein Stepanek teach that the holographic image is formed by metallizing the plastic transfer support comprising a surface relief having the desired design and further teach that advertising and decorative images are also envisioned (Abstract; Figures; Col. 4-5.) Hence, the resulting composite taught by Stepanek reads upon the instantly claimed invention wherein the adhesive layer of Stepanek, which is adjacent to the metal stock and holds the metallized holographic image or surface relief, is equivalent to the first layer of non-metallic material of the instant invention. Though Stepanek teaches that advertising and decorative images are also envisioned as part of the invention, Stepanek does not specifically teach that the additional advertising or decorative images are provided as a print or color layer on the metal substrate between the

substrate and the first layer of non-metallic material or that the decorative container includes an image produced by a diffraction pattern or layers of different refractive index. However, it is well known in the art that substrates provided with a surface relief pattern or hologram may be further coated to provide diffraction pattern effects to provide the desired decorative properties for a particular end use. Further, the use of the holographic images over printed or decorative coatings on metal substrates to provide decorative products is well known and conventional in the art as taught by Bussard or Iwashita et al or Mallik et al and therefore it would have been obvious to one having ordinary skill in the art to provide a colored layer as needed based on the desired end use of the decorative product taught by Stepanek.

7. Claims 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hori et al (USPN 4,293,599) in view of Choquette and in further view of Mallik or Iwashita et al or Bussard. Hori et al teach a method of producing a surface relief pattern in a non-metallic layer coated on a substrate such as a plate or sheet composed of iron, stainless steel, or aluminum wherein Hori et al teach that a substrate having a pattern thereon is particularly useful in various applications and may be provided with a multicolored topcoat (Abstract; Col. 6; Col. 7, lines 3-20.) Hori et al do not specifically teach that the substrate is provided with a colored layer between the surface relief layer and the substrate or that the surface relief is further provided with a diffraction pattern. However, it is well known in the art as taught by Choquette that substrates provided with a surface relief pattern may be further coated as instantly claimed to provide holographic or diffraction pattern effects to provide the desired decorative properties. Further, the use of the holographic images over printed or decorative coatings on substrates to provide tamper-proof and/or decorative products is well known and conventional in the art as

Art Unit: 1773

taught by Mallik et al or Iwashita et al or Bussard and therefore one having ordinary skill in the art at the time of the invention would have been motivated to provide a colored layer as needed based on the desired end use of the imaged product wherein the use of holographically-imaged substrates to fabricate containers such as food or beverage containers or any other end products wherein a holographic image would be desirable is well known and conventional in the art and it would have been obvious to one skilled in the art at the time of the invention to produce a container product or any other desired imaged product based on the teachings of the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson
Primary Examiner
Technology Center 1700
December 10, 2004